REMARKS

The present amendment is submitted in response to the Office Action dated February 2, 2010, which set a three-month period for response, making this amendment due by May 2, 2010.

Claims 1-2, 5, 9-11, 13-16, 18, 20-25, and 27 are pending in this application.

In the Office Action, claims 1-2, 5, 9-11, 13-16, 18, 20-23, and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2171045 to Weber in view of U.S. Patent No. 3,957,304 to Koutsky et al. Claims 24-25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Weber in view of Koutsky and further I view of U.S. Patent No. 707,803 to Smith.

In the present amendment, claims 1, 25, and 27 have been amended to more clearly define the present invention over the cited references by adding the features that *the return element is arranged perpendicular to the working direction; is directly contacted with a surface of each of the force-transmission elements and connects said force-transmission elements with each other; and is located in the working direction in a region between the connecting element and the handle.*

Support for the new features of claim 1, 25, and 27 can be found on page 1, paragraph [0011] and on page 2, paragraph [0025] and are shown in Figs. 3 and 4.

The Applicant respectfully submits that the claims as amended are not rendered obvious over the combination of Weber and Koutsky.

Weber discloses a handle device for damping vibrations of the rotary hammer. The handle device comprises two levers 15 connected at one of their ends via a

connecting element so that the two levers 15 are swingable about an axis 16. Moreover, the other ends of the two levers 15 are connected to pistons 17 which are supported by two return elements 18. These return elements 18 are arranged perpendicular to a working direction of the rotary hammer (see Weber, page 3, lines 21-30, Fig. 3).

The new reference to Koutsky et al discloses a vehicle seat and suspension assembly 11 with a vibration-shielding unit 16 for damping vibrations. The vibration-shielding unit 16 comprises two force-transmission elements and a return element. The force-transmission elements are interconnected by a connecting element and are configured to perform a scissors-type motion. The return element extends in an impact direction along the force-transmission elements (Koutsky et al, column 2, lines 46-61, Fig. 4).

Emonet discloses a rotary hammer 1 with a handle device 20, which is composed of two force-transmission elements 6, 7 and two return elements 18, 19. The force-transmission elements 6, 7 are interconnected in a central region of the force-transmission elements 6, 7, and they are configured to perform a scissors-type motion. The return elements 18, 19 are arranged ***parallel*** to a working direction (Emonet, column 2, lines 31-50, Fig. 3).

The Applicant respectfully submits that a combination of Weber and Koutsky would not lead the practitioner to consider a vibration-shielding unit with two force-transmission elements which are interconnected in a central region of at least one of the force-transmission elements by a connecting element so that they could perform a scissors-type motion. Rather, one skilled in the art would recognize that this

embodiment would require a disadvantageous length of the rotary hammer in a working direction.

Nevertheless, even if the practitioner did consider such an embodiment, the combination of Weber and Koutsky et al would lead him to a rotary hammer with a vibration–shielding unit having two-force transmission elements which are interconnected in a central region of at least one of the force-transmission elements by a connecting element so that they could perform a scissors-type motion. Furthermore, the vibration-shielding unit would include return elements which would extend perpendicular to a working direction from one side of a housing to an end of the force-transmission element facing the housing. The ends of the force-transmission element facing the housing would be pressed inwardly.

However, the practitioner skilled in the art would NOT be provided with any teaching or suggestion for arranging a return element ***between*** the ends of the force-transmission elements, wherein the return element connects the two force-transmission elements with each other. As defined in claim 1, this embodiment has the advantage that the damping features of the vibration-shielding unit can be improved considerably because of the direct connection between both force-transmission elements. Furthermore, in this embodiment only one return element is required for guiding a motion of the handle along the working direction and also for effectively damping impacts and vibrations.

Moreover, after studying Weber and Koutsky, the practitioner would arrange the return element in a region between the connecting element and the housing of the rotary hammer, as taught by Weber. The practitioner would have absolutely no

motivation to arrange the return element on the opposite side between the connecting element and a handle. This embodiment has the advantage that the vibration shielding unit can be constructed advantageously in an economical and simple manner.

Further, a combination of Emonet and Smith would not motivate one skilled in the art to design the vibration-shielding unit as defined in amended claim 1.

The same arguments presented above with regard to claim 1 also apply to amended claims 25 and 27.

The amended claims therefore are not rendered obvious by any combination of the cited references. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. ***In re Fritch***, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992). Since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01.

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

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